

Remarks

The Office Action Summary, "Disposition of Claims", 4) and 4a) appear to be inconsistent with each other and with the previous election without traverse of Group I, Claims 1-21 and 43-51 in response to Paper No. 7 as acknowledged on Page 2 of Paper 8 dated 01/15/2003. As such, the above listing of claims is felt to be consistent and essentially identical (but for currently amended Claim 3) with that of previous Amendment dated March 19, 2003, and consequently further remarks in defense of the patentability of Claim 20 are enclosed below.

At present Claim 3 is objected to because of the informality of using the word "consisting". Reconsideration of this objection is requested based on correcting the word to read "consists" as suggested by the Examiner.

At present Claim 53 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failure to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Reconsideration of this rejection is requested.

In asserting the above rejection the Office Action seems to indicate that Claim 53, which requires the polymeric layer to contain pigments, dyes, flakes or mixtures thereof, depends from another claim, which recites that the layer is clear and hence does not meet the requirements of §112. However, Claim 53 has been cancelled and as such this rejection must be withdrawn. But, it appears that Claim 20 could be the subject of a similar type of rejection. In defense of Claim 20 it is respectfully submitted that the concept in introducing pigments, dyes, and flakes into an otherwise optically clear polymeric layer is not a technological contradiction, per se. For example, ordinary sunglasses are known to involve an optically clear polymeric lens yet are colored or tinted.

It is respectfully submitted that the concept of providing an optically clear layer (found in an independent claim) when referring to a

class A automotive-type exterior grade surface that is colored or tinted (i.e., containing pigment, dye or flake of a defendant claim) is generally known in the clear-coat/color-coat paint art and again not a contradiction in terms. More specifically in the present invention the Examiner's attention is directed to page 33, lines 1-3, of the specification wherein the use of clear pigments are taught and to page 17, lines 19-25, wherein other nacreous pigments for colored metal appearance properties are acknowledged as being known in the art.

In view of the above it is felt that there is a basis for the withdrawal the §112 rejection and such action is requested.

At present Claims 1, 3, 6, 43, 51/43, and 52/43 are rejected under 35 U.S.C. §102(b) as being anticipated by a patent issued to Dous et al. (USPN 5,858,404). Reconsideration of this rejection is requested.

In asserting the above rejection the Office Action states, in part, that Dous et al. teaches a coextruded multi-colored film for automotive parts such as dashboards wherein the film comprises a polymer backing layer, at least one pigmented or dyed upper layer(s), and one or more additional layers including lower layer(s) arranged above the upper layer wherein the lower layer comprises 9.5-77 wt% ionomers based on ethylene and (meth)acrylic acid with some of the acid groups neutralized with metal ions. The Office Action then states that Dous et al teaches that the upper film also comprises ionomers based on ethylene and (meth)acrylic acid with some of the acid groups neutralized with metal ions and parenthetically identifies list of locations in the reference in support of the series of assertions.

In contrast to the wording in the instant rejected claims requiring the top/outer layer to consist essentially of ionomer, the Dous et al. outer layer is affirmatively identified at column 7, line 63 through column 8, line 1, as being a polypropylene derived soft thermoplastic or an ethylene/propylene copolymer elastomer none of which are categorically "clear" or transparent. All references to ionomer identified by the Examiner in the parenthetical list of locations deal exclusively with the second or lower layer and not the top/outer layer. The reason for this is that Dous et al. is teaching how to produce a film

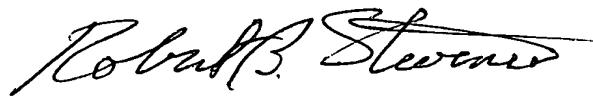
useful in making a two-colored automotive dashboard which has to be soft (see column 12 lines 46-47, column 11, lines 24-30 and column 12, lines 46-47), non-glossy (see column 10, line 10 and column 10, line 28), and heavily pigmented with two different opaque colorants (see column 4, lines 9-23).

The only suggestion that Applicants' Attorney could find that supports the Examiner's use of the phrase "comprising" is at column 12, lines 29-61 wherein an (x) and (y) blend is taught for use as the outer layer. However, only a portion of component (y) is said to be ionomer and the properties of this blend (modulus of elasticity of the mixture, see column 12, lines 46-47) and the identity and concentration of the necessary other components (i.e., component (x)) dictate that the resulting blend would be opaque and soft (contains and elastomeric component). Clearly, this teaching is not consistent with Applicants' use of the claim language "consisting essentially of ionomer" and the inherent properties embraced in making a class A type automotive exterior surface.

In view of this difference it is felt that there is a clear basis for the withdrawal of the §102(b) rejection of independent Claim 1 and 43 and all claim dependant therefrom and such action is respectfully request.

In view of the above brief remarks and the enclosed amendment to Claim 3 it is felt that all claims are now in condition for allowance and such action is requested. Should the Examiner believe that an interview or other action in Applicants' behalf would expedite prosecution of the application, the Examiner is urged to contact Applicants' attorney by telephone at (302) 992-6824.

Respectfully submitted,



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